

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Privacy Protection

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Purpose

To provide guidelines for the storage, destruction, and disclosure of personally identifiable information about members of the public and County employees by the County of San Diego. "Personally identifiable information" means any information that could reasonably be used to identify a person, including name, address, e-mail address, Social Security number, birth date, or any combination of information. The policy is intended to strike an appropriate balance between the objectives of open government and the protection of the privacy rights of individuals.

Background

The right to privacy is expressly established in the California Constitution, article 1, section 1. However, the privacy of individuals is increasingly at risk due to the ever more widespread collection of personal information by both the private and public sector. In addition, the ability to collate, sort, cross-reference, and compare information through computerized means known as "data-mining," facilitates the creation of comprehensive data bases that can reveal much about an individual's private life.

The California Public Records Act (Act) provides that information collected and maintained by a public agency for the conduct of the public's business is a public record and, unless there is an applicable exemption, shall be open for review and disclosure to members of the public upon request. Exemptions to the disclosure requirements are expressly recognized in the Act. One exemption, known as the "personal privacy" exemption, provides that certain types of information may be kept confidential by a public agency where the disclosure would constitute an unwarranted invasion of personal privacy (Gov. Code, § 6254(c)). In addition, records may be withheld from public disclosure where the public interest in withholding such records clearly outweighs the public interest in disclosure. (Gov. Code, §§ 6254(a) and 6255.)

These exemptions clearly indicate that not all information in the possession of a public agency must be disclosed to the public. This is particularly true of certain types of private/personal information. However, the provisions of the Act that exempt certain documents from disclosure are merely permissive. This means that the Act permits the public agency to refuse to disclose certain types of information. The Act does not mandate the public agency to refuse to disclose records that are exempt from disclosure under the Act. Without a County policy the decision of whether a public agency will or will not disclose records that the Act permits to be kept confidential is made on a case-by-base basis by the particular department responsible for the records. Therefore, this

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policy is necessary to make clear to County officials that they are to deny requests for disclosure of private/personal information, after consultation with County Counsel, if the information requested by the public is exempt from disclosure under the Act.

Nothing in this policy is to be construed to limit or prohibit a County officer or employee from acting in conformity with the provisions of the Act and other laws governing personal information in respect to disclosing or maintaining the confidentiality of personal information. The guidelines in this Policy will provide County officers and employees who are the custodians of County records with a clear indication of how to give appropriate weight to privacy rights of individuals in determining whether to disclose personal information to the public.

Policy

In the absence of any provision of law to the contrary, including the provisions of the Act, personally identifiable information about individuals is to be handled by County officers and employees in accordance with the following guidelines. County officers and employees must consult with County Counsel prior to determining whether to disclose or not to disclose personally identifiable information based upon the application of these guidelines and state and federal law.

1. Individuals do not lose their right to privacy merely because personally identifiable information about them is collected, maintained, and used by the County.
2. Personally identifiable information must be protected by reasonable security safeguards against unauthorized and inadvertent access and disclosure. Each County department shall establish procedures for maintaining the confidentiality of personally identifiable information when handling such information during the normal course of business and during the destruction and disposal of records which are of no further use.
3. Where required by applicable federal or State law, the County's Health and Human Services Agency shall appoint a Privacy Officer who shall also serve as the Privacy Officer for other parts of the County for which the law requires a designated privacy officer.
4. Personally identifiable information in the possession of the County which is unrelated to the conduct of the public's business is not to be disclosed, unless otherwise required by law.

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5. An official Public Records Act request (sometimes referred to as a "Freedom of Information Act" request) that seeks review or disclosure of an individual's private/personal information in the possession of the County must be reviewed in consultation with County Counsel. If disclosure of the private/personal information will constitute an unwarranted invasion of privacy under Government Code section 6254(c), the information is exempt from disclosure and the request for such information is to be denied. Unless otherwise ordered by a court or the individual whose records are at issue provides express written consent to the disclosure, the private/personal information must be maintained as confidential information.

6. Several state and federal laws provide that certain types of private/personal information are confidential or privileged and mandate that such information not be disclosed to the public. (For example, the California Confidentiality of Medical Records Act and the federal Standards for Privacy of Individually Identifiable Health Information both provide that certain medical records of an individual are confidential and shall not be disclosed without the express written authorization of the individual.) It is the responsibility of all County officers and employees to be familiar and to fully comply with these laws when handling such private/personal information in the normal course of their duties.

7. All County departments shall include the provisions of this Policy as part of their written expectations of and directions to their staff members. All County officers and employees shall be subject to the requirements of this Policy to appropriately protect the personal information of individuals as part of their County responsibilities.

Sunset Date

This policy shall be reviewed for continuance by 12/31/2012.

CAO Reference

1. Chief Administrative Officer
2. County Counsel

BOARD ACTION:

5/11/99 (29)
5/16/06 (16)
1/30/07 (4)